IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.324 OF 2005

Shimmit Infrastructure Ltd. ...Appellant
Vs.
Government of Maharashtra & Ors. ...Respondents

Mr.A.Y.Sakhare, Mr.Shreeganesh Khaire i/b Sayaji Nangre for the Appellant
Ms Geeta Joglekar for the Respondents.

CORAM: A.S.OKA, J.
DATED: MARCH 28,2005.

P.C.:

1. Heard Counsel appearing for the parties. The challenge in this Appeal from Order is to the order dated 17th February 2005 by which the learned Trial Judge declined to grant ad-interim relief in favour of the Appellant-Plaintiff.

2. The Appellant-Plaintiff was awarded a contract for providing Retro Reflective Signage System on the Eastern and Western Express Highways. The dispute involved in the present suit is regarding gantries erected by the Appellant on the western express highway.

3. The prayer made by the Appellant in the suit is for declaration that the clause in the agreement by which the concessional period comes to an end on 7th November 2004 is illegal and improper and for declaration that concessional period stands extended from 7th November 2004 for further period of at least 24 months. The challenge is to the letter dated 15th October 2004 issued by the Executive Engineer of the Respondent. By the said letter the Executive Engineer

declined to grant extension of concession period in favour of the Appellant-Plaintiff.

4. The Notice of Motion was taken out in the suit in which prayer for interim injunction is made restraining the Respondents from enforcing or implementing the notice dated 15th October 2004 and interfering with Appellant carrying out the advertisement and display from the said gantries till the extended concessional period of 24 months gets over.

5. While rejecting the prayer for grant of interim relief a prima facie finding has been recorded by the learned Trial Judge that period of agreement has already expired on 7th November 2004. The learned Trial Judge also recorded a finding that even assuming that there was a breach of contract on the part of the Respondent, the remedy of the Appellant-Plaintiff was to file a suit for damages.

6. Considering the nature of the contract, I agree with the prima facie findings recorded by the learned Trial Judge that remedy of the Appellant-Plaintiff was to claim damages.

7. No fault can be found with the discretionary order passed by the Trial Court declining to grant ad-interim relief. Hence, the Appeal from Order has no merit and the same is dismissed with no order as to costs. All contentions of the parties in the pending Notice of Motion and the suit are

expressly kept open.

8. At this stage, the learned Counsel for the Appellant prays that ad-interim order passed by this Court be continued for a reasonable time. The learned A.G.P. opposed the said prayer. Considering the facts and circumstances of the case, ad-interim relief which is operating till today is extended by a period of three weeks from today.

9. Parties to act upon an authenticated copy of this order.

Judge.